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Arlington, VA 22203

In re Application of
MCLAUGHLIN, Neil et al.
Application No.: 10/530,862
PCT No.: PCT/AU2003/001349
Int. Filing Date: 13 October 2003
Priority Date: 11 October 2002
Attorney Docket No.: 4132-5
For: A SUPPORT APPARATUS

DECISION ON

PETITION

UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under Rule 47(a) to Proceed When an Inventor Refuses to Sign", filed in the United States Patent and Trademark Office (USPTO) on 13 March 2006.

BACKGROUND

On 13 October 2003, applicants filed international application PCT/AU2003/001349, that claimed a priority date of 11 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 April 2005.

On 11 April 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 December 2005, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed indicating that an Oath/Declaration in compliance with 37 CFR 1.479(a) and (b) must be furnished.

On 13 March 2006, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a supporting declaration. The petition requests that the Declaration submitted therewith be accepted without the signature of one of the inventors.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the complete application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) have been satisfied. The balance of the \$200 petition fee will be charged to deposit account no. 14-1140, as authorized. Applicants list Neil McLaughlin's address as 51/53 Chloe

Drive, Munruben, Queensland 4125, Australia.

Item (2) has not been satisfied. Applicants have not furnished evidence of receipt of the complete copy of the application papers, including the application to be filed (i.e., specification, drawings and claims), by the non-signing inventor. MPEP 409.03(d). A declaration under 37 C.F.R. 1.63 requires that the applicants have "reviewed and understand the contents" of the U.S. non-provisional application submitted.

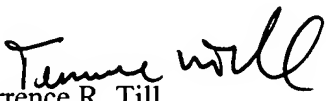
Item (4) has not been satisfied. The declaration fails to comply with 37 C.F.R. 1.497(a)-(b) and 37 C.F.R. 1.47(a) in that the declaration presented has the information for Neil McLaughlin crossed through. Further, Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).


CONCLUSION

For the above reasons, applicants' petition under 37 C.F.R. 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136 (a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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